

REMARKS

Claims 1-28 are pending in this application.

In paragraphs 1 and 2 of the office action, the Examiner rejects claims 1-27 under 35 USC §103(a) as being unpatentable over US patent no. 6,686,872 (Shattil) in view of US patent no. 5,463,337 (Leonowich). However, the present application is a continuation of US patent 6,658,066, which has a filing date of February 17, 2000. The main reference cited by the Examiner, Shattil, has a filing date of July 16, 2001, which is after the effective filing date of the present application. Although Shattil is a continuation-in-part of a patent filed February 12, 1998 , a review the earlier filed patent indicates that the earlier filed patent fails to have support for the matter cited by the Examiner. In this way, the new matter in Shattil is only entitled to a filing date of July 16, 2001. Accordingly, the applicant respectfully requests that the Examiner withdraw Shattil as a reference, as it's new matter has a filing date after the effective filing date of the present application.

In paragraphs 3 and 4 of the office action, the Examiner rejects claim 28 under 35 U.S.C. §102(b) as being anticipated by US patent no. 6,324,233 (Sempel). The applicant respectfully traverse this rejection, and submits that Sempel fails to disclose all the limitations of claim 28. For example, Sempel does not disclose "a modulator multiplier value" as introduced in the last limitation of claim 28.

Instead, Sempel, in Fig. 4, shows the VCO generating a CI modulation signal and a CQ modulation signal, which are merely stated to have an orthogonal relationship (*Sempel, col. 5, lns. 23-25*). In contrast, the present application uses a subharmonic multiplier to adjust the phase difference between first and second modulator signals. (See, Specification as published, paragraphs [0029] and [0039]). Since Sempel fails to disclose all the limitations of claim 28, the applicant respectfully submits that Sempel cannot anticipate claim 28.

In the office action, the Examiner rejects claims 1-27, finding a statutory (35 USC 101) double patenting issue. More particularly, the Examiner finds that claims 1-27 of prior US Patent 6,658,066 are directed to the same invention as current claims 1-27. The applicant respectfully traverses this rejection, and submits that the pending claims are not coextensive in scope to the claims of US patent 6,658,066. The table below sets out just some of differences in the independent claims:

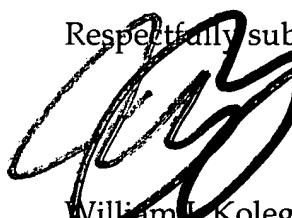
Claim 1 of the present application has a first limitation that states, in part: <i>delaying the local oscillator signal in a plurality of incremental delay steps to form at least two sets of modulator signals</i>	Claim 1 of US patent 6,658,066 has a first limitation that states, in part: <i>delaying the local oscillator signal in a plurality of incremental odd and even delay steps to form respective sets of odd and even modulator signals</i>
Claim 10 of the present application has a first limitation that states, in part: <i>means for delaying the local oscillator signal in a plurality of incremental delay steps to form at least two sets of modulator signals</i>	Claim 10 of US patent 6,658,066 has a first limitation that states, in part: <i>means for delaying the local oscillator signal in a plurality of incremental odd and even delay steps to form respective sets of odd and even modulator signals</i>
Claim 19 of the present application has	Claim 19 of US patent 6,658,066 has a

a first limitation that states, in part: <i>a delay chain adapted to delay the local oscillator signal in a plurality of incremental delay steps to form at least two sets of modulator signals</i>	first limitation that states, in part: <i>a delay chain adapted to delay the local oscillator signal in a plurality of incremental odd and even delay steps to form respective sets of odd and even modulator signals</i>
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As can be seen from the table above, the scope of the present claims is not coextensive with the scope of the claims in the cited US patent. Accordingly, claims 1-27 are not directed to the “same invention” as claimed in US patent 6,658,066. For this reason, the applicant respectfully requests that the Examiner withdraw the rejection based on statutory double patenting.

CONCLUSION

Applicant respectfully submits that pending claims 1-28 are now in a condition for allowance. If the Examiner would find it useful, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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